ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2011

Ms. Margo M. Kaiser
Staff Attorney
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2011-10496

Dear Ms. Kaiser:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 426539 (ORR# 110524-032).

The Texas Workforce Commission (the "commission") received a request for information pertaining to a specified discrimination complaint filed with the commission. You state the commission has redacted information pertaining to mediation and conciliation efforts pursuant to the previous determination issued to the commission in Open Records Letter No. 2009-10954 (2009) and other information pursuant to the previous determination in Open Records Decision No. 684 (2009). *See* Gov't Code § 552.301(a); Open Records Decision Nos. 684 (previous determination authorizing any governmental body to withhold ten categories of information without necessity of requesting attorney general opinion), 673 at 7-8 (2001). You state the commission will release some of the requested information upon payment. You claim some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

[1]We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This exception encompasses information other statutes make confidential. Pursuant to section 21.204 of the Labor Code, the commission may investigate a complaint of an unlawful employment practice. *See* Labor Code § 21.204; *see also id.* §§ 21.0015 (powers of Commission on Human Rights under Labor Code chapter 21 transferred to commission's civil rights division), 21.201. Section 21.304 of the Labor Code provides that "[a]n officer or employee of the commission may not disclose to the public information obtained by the commission under Section 21.204 except as necessary to the conduct of a proceeding under this chapter." *Id.* § 21.304.

You indicate the submitted information contains references to complaints of unlawful employment practices filed by third parties and investigated by the commission under section 21.204 on behalf of the Equal Employment Opportunity Commission. Based on your representations, we find section 21.304 of the Labor Code is applicable to the submitted information. You contend the release provisions of section 21.305 of the Labor Code are not applicable to the information you have marked because the requestor is not a party to any of these third party complaints. *See id.* § 21.305 (granting access to commission records to party to complaint filed under Labor Code section 21.201). We agree. Therefore, we conclude the commission must withhold the submitted information you have marked under section 552.101 of the Government Code in conjunction with section 21.304 of the Labor Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 426539

Enc. Submitted documents

c: Requestor
(w/o enclosures)